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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,282	01/04/2005	Makoto Oyama	09657/0202169-US0	5713
7278	7590	02/05/2008	EXAMINER	
DARBY & DARBY P.C.			HALE, GLORIA M	
P.O. BOX 770			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,282

Applicant(s)

OYAMA ET AL.

Examiner

Gloria Hale

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All. b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1-25-08.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 the preamble states that the garment is a crotch-possessing garment.

However, no crotch area or portion has been claims. In line 3 it is not clear as tow hat the "tightening portion" encompasses. The portion in applicants invention tightens but it also relaxes. This recitation is confusing in that a tightening portion is usually a fabric portion that is then pulled or closed with a fastener to tighten the area. It is not clear as to how the tightening force varies with direction or has to in what plane the "orthogonal direction" runs. Also the description of running or passing above the left and right buttocks is confusing since it is not clear that there are "two wings" where in each wing runs in either the left or right direction. Also the body portions should be described as being a wearer's body portions in order to not confuse the portions with the garment portions. Also the trochanters in applicants figures appear to be above the wearer's thighs so the recitation in claim 1 that it extends "downwards along the outer side of the left and right thighs to the vicinities of the left and right greater trochanters is confusing since the portions would pass the trochanters before the thighs. Also it is not clear as to what "in which the tightening force runs" since it is not exactly clear as to what

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that is with the added recitations. In claim 2, line 3 it is not clear as to what Left/right encompasses. Is it left or right or left and right. Also in all of the claims it is not clear as to what the metes and bounds of the term "the vicinity of" encompasses. Claim 2, line 7 is now confusing in that the greater trochanter in applicant's figures appears to be above the thighs but the added recitation now claims the opposite. There is no antecedent basis for "the outer thigh". In line 8 insert "a" before "point". It is not clear as to in what plane the term "orthogonal" is in. OR in which direction it is orthogonal in such as above or below the tightening portion. The body parts of the wearer should be described as being of the wearer and not the garment. In claim 5 it is not clear as to in what plane the curved shape above the buttocks runs. Such as a cup shaped curve above the buttocks to enclose the buttocks or in the flat plane parallel to the skin surface of the wearer. Claim 6 is unclear for the same reason as claim 5. In claim 7 the lumbar region should be described as being of the wearer. There is no antecedent basis for "The front and the rear". Claim 8 is not clear for the same reasons as claim 7. The terms "left/right" in all of the claims need to be clarified as stated above. Claim 11 is not clear for the same reasons as in claim 1. In claim 12 it is not clear as to what plane the tightening portions are to run. Claims 13 and 14 are unclear as stated in claim 12. In claims 15-17, the directions of the tightening portions need to be clarified as being one in the left and one in the right. Separately one in each direction. The recitation is presently unclear as previously stated above. Claims 18-20 are unclear in regard to "belt-shaped. Belts have many shapes and it is unclear as to what it encompasses. In claims 21-23 the term "power change" needs to be better defined. If it is a change in the

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knit structure it should be claimed as such. Claims 24-26 claim the same garments of tights and spats.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Sacristan (US 3,894,542).

Sacristan discloses the crotch possessing corrective garment with the tightening portion 7 wherein the material used to construct the tightening portions has a force lower than that in the direction orthogonal thereto as best understood. The shape of the tightening portion is configured as claimed in addition to that of the supplementary front tightening portion 4 which is also configured as claimed. See Sacristan, figures 1-3 and col. 1, line 14-40). The garment includes thigh portions as broadly claimed. Applicant's specific band structure which extends along the side of the thigh extending from the proper direction and order has not been properly claimed over Sacristan. The Sacristan garment is a girdle as claimed.

Claims 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. None of the cited references, disclose the warp knitted structure as claimed.

Response to Arguments

Applicant's arguments filed 11-8-07 have been fully considered but they are not persuasive

The exact structure has not been clearly claimed as discussed above in the rejection under 35 USC 112 in that there is some confusion above the location of the greater trochanter in relation to the thigh as to which is first in the claims when claiming the e areas in an upward and a downward direction. The claims are not clearly detailed in order to over the Sacristan prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Tues.-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gloria Hale
Primary Examiner
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